IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION NO. 53 OF 2006

IN

SECOND APPEAL NO. 33 OF 2006

SMT. MUGDHA ATCHUT BHISE, CURCHOREM GOA. ....Applicant

Versus

PIO JOSE DE CUNHA, CURCHOREM GOA. ....Respondent

Mr. V. A. Lawande, Advocate for the applicant.

Mr. P. S. Rao, Advocate for the respondent.

Coram:- S.A.BOBDE, J.

Date:- 8th March, 2007

P.C.

The applicant prays for continuation of the stay granted by this Court while admitting the second appeal. The learned Counsel for the respondent, however, points out that the statement in paragraph 2-A that the applicant has been regularly paying the rent till date at the rate of Rs.2520/-, is not true and, therefore, the applicant is not entitled for continuation of the stay.

2. The respondent has stated in his affidavit vide paragraph 3 that for certain months referred to therein the applicant has not deposited the royalty and has also pointed out vide paragraph 5 that he has paid less royalty than what was due.

3. The learned Counsel for the applicant relies on the affidavit-in-rejoinder where the applicant has merely stated that the

statement is made on the bona fide belief that the rent was paid regularly and that he is ready and willing to pay the same in the respondent's account. He further submits that the statement of account does not show all the previous payments made by the applicant. Peculiarly, the applicant states that if any amount is short that she undertakes to pay the same.

4. Having regard to the affidavits, I am of the view that the applicant has made a reckless unsubstantiated statement in support of her application for stay. The statement is in relation to a matter of which she must have full knowledge. There is no justification for making such a statement. Such a statement clearly disentitles the applicant for any interim relief if, not for more serious consequences. Application for stay is, hereby rejected.

S.A.BOBDE, J.

ssm.